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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**DAVID ALLEN HORN
162 Casentini SE Apt 111G
Salinas, CA 93907**

Registered Nurse License No. 638901

RESPONDENT

Case No. 2012-675

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 1, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-675 against David Allen Horn (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about June 24, 2004, the Board of Registered Nursing (Board) issued Registered Nurse License No. 638901 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on July 31, 2006 and has not been renewed.

3. On or about May 1, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-675, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

162 Casentini SE Apt 111G
Salinas, CA 93907.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about May 29, 2012, the Certified Mail documents were returned and marked
5 by the U.S. Postal Service, "Unclaimed".

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon him, and therefore waived his right to a hearing on the merits of Accusation
18 No. 2012-675.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated May 1, 2012, signed by Kami Pratab, and the returned
25 envelope finds Respondent is in default. The Board will take action without further hearing and,
26 based on Accusation No. 2012-675 and the documents contained in Default Decision
27 Investigatory Evidence Packet in this matter which includes:
28

- 1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-675,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;
- 6 Exhibit 2: License History Certification for David Allen Horn, Registered Nurse
7 License No. 638901;
- 8 Exhibit 3: Affidavit of Kami Pratab;
- 9 Exhibit 4: Out of State Discipline (Texas and Alabama Board of Nursing);
- 10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2012-675.

12 The Board finds that the charges and allegations in Accusation No. 2012-675 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$860.00 as of June 6, 2012.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent David Allen Horn has subjected
21 his following license(s) to discipline:

22 a. Registered Nurse License No. 638901

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary
28 action by another State Board of Nursing.

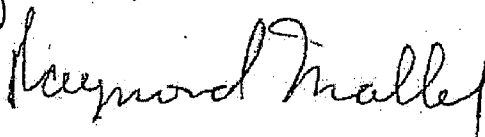
ORDER

IT IS SO ORDERED that Registered Nurse License No. 638901, heretofore issued to Respondent David Allen Horn, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on AUGUST 31, 2012.

It is so ORDERED AUGUST 1, 2012



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2012-675

Exhibit A

Accusation No. 2012-675

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
Deputy Attorney General
4 State Bar No. 203296
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7 LYDIA ZANE, Senior Legal Analyst
8 Telephone: (415) 703-5573
9 Facsimile: (415) 703-5480

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. **2012-675**

14 **DAVID ALLEN HORN**
15 **162 Casentini SE, Apt. 111G**
Salinas, CA 93907

A C C U S A T I O N

16 **Registered Nurse License No. 638901**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
23 Department of Consumer Affairs.

24 2. On or about June 24, 2004, the Board issued Registered Nurse License Number
25 638901 to David Allen Horn (Respondent). The Registered Nurse License expired on July 31,
26 2006, and has not been renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board under the authority of the following

1 laws. All section references are to the Business and Professions Code (Code) unless otherwise
2 indicated.

3 4. Code section 2750 provides, in pertinent part, that the Board may discipline any
4 licensee, including a licensee holding a temporary or an inactive license, for any reason provided
5 in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6 5. Code section 2764 provides that the expiration of a license shall not deprive the
7 Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a
8 decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may
9 renew an expired license at any time within eight years after the expiration.

10 STATUTORY PROVISIONS

11 6. Code section 2761 states that the Board may take disciplinary action against a
12 certified or licensed nurse for any of the following:

13 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

14 “...

15 “(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
16 against a health care professional license or certificate by another state or territory of the United
17 States, by any other government agency, or by another California health care professional
18 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
19 action.”

20 7. Code section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Out of State Discipline)
(Bus. & Prof. Section 2761, subd. (a)(4))

25
26 8. Respondent is subject to disciplinary action under Code section 2761, subdivision
27 (a)(4), for revocation of his nursing license by another state, as follows:
28

9. On or about March 20, 2007, the Board of Nurse Examiners for the State of Texas issued a default order revoking Respondent's Registered Nursing License Number 692826 pursuant to section 301.452(b) of the Texas Occupations Code. The revocation was based on Respondent's voluntary surrender, and subsequent revocation, of his license to practice nursing in the State of Alabama on or about February 10, 2006.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 638901, issued to David Allen Horn;

2. Ordering David Allen Horn to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

May 1, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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